

REMARKS

Reconsideration of this application is respectfully requested.

This application has been reviewed in light of the Office Action dated August 25, 2003. Claims 1-10 are currently pending in this application.

In the Office Action, the Examiner has rejected Claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art in view of U.S. Patent No. 5,999,816 (*Tiedemann*). It is respectfully submitted that the Examiner is incorrect.

Tiedemann discloses a method and apparatus for performing an inter-system hard handoff between communications systems or an inter-frequency hard handoff within a CDMA communication system. In *Tiedemann*, in the event that a hard handoff attempt is unsuccessful, the mobile station will return to the original system with information, which the communication system uses to assist in the performance of future handoff attempts.

The Examiner cites the admitted prior art as disclosing all elements of Claim 1 except for resuming a call on a traffic channel that is first available between one of the recovered traffic channel and the assigned traffic channel. More specifically, the Examiner cites *Tiedemann* at column 17, lines 5-16 and the Abstract as disclosing this element. However, *Tiedemann* assumes that the mobile station can return to the original channel in case of a failed handoff, as disclosed at column 3, lines 20-24:

In the event that a hard handoff attempt is unsuccessful, the mobile station will return to the original system with information which the [sic] is used to assist in the performance of future handoff attempts.

Because *Tiedemann* takes for granted the ability of the mobile station to return to the original channel, the original channel is always available, and thus the original channel is always the first available channel. However, *Tiedemann* also teaches a handoff to a new channel. The new channel cannot be the first available channel, because the original channel is always the first available channel. Thus, *Tiedemann* teaches away from resuming

a call on a traffic channel that is first available between one of the recovered traffic channel and the assigned traffic channel as recited in Claim 1.

Further, if the hard handoff disclosed by *Tiedemann* does not succeed, the mobile station attempts only to recover contact with the original base station, and does not seek both the original base station and a new base station, as shown at column 3, lines 46-53:

If the minimum pilot energy threshold is not exceeded, recovery techniques begin. The mobile station measures the total in-band energy of the destination system and compares that to the total received power threshold. If the minimum total received power threshold is not exceeded, the handoff is abandoned immediately. The mobile station returns to the original system and reports that no significant power was detected at the new frequency.

Because *Tiedemann* discloses that the handoff is abandoned if initially unsuccessful, *Tiedemann* teaches away from the mobile station ever seeking both the original traffic channel and a new traffic channel. Therefore, it is respectfully submitted that *Tiedemann* cannot and does not disclose, either in the above-cited text or anywhere else in the specification, resuming a call on a traffic channel that is first available between one of the recovered traffic channel and the assigned traffic channel as recited in Claim 1.

In further regard to the rejection of Claim 1, the Examiner cites the admitted prior art as teaching, at page 4, lines 4-7 of the present Application, searching an adjacent base station whose signal arrives at a mobile station with a greater received signal strength. Page 4, lines 4-7 of the present Application reads:

If two consecutive good frames are received, the mobile station enables the transmitter and performs the call. Otherwise, the mobile station searches for a base station other than the serving base station, of which the signal is received with an acceptable level of signal strength using a searcher.

The admitted prior art teaches searching for a base station with a signal received with an acceptable level of signal strength. Searching for a signal with an acceptable signal strength implies comparison with a predetermined value, rather than a comparison between received signal strengths, as in searching for a base station whose signal arrives with a greater

received signal strength, as recited in Claim 1. Therefore, it is respectfully submitted that the admitted prior art does not disclose searching an adjacent base station whose signal arrives at the mobile station with a greater received signal strength as recited in Claim 1.

Additionally, it is respectfully submitted that *Tiedemann* fails to disclose checking that at least two consecutive normal frames are received through a traffic channel that is disconnected in relation to the dropped call, searching an adjacent base station having a greater received signal strength using a searcher, requesting a traffic channel to the searched base station, assigning to the mobile station a traffic channel using a physical channel used for data transmission, and resuming the call on the traffic channel that is first available. Again referring to column 17, lines 5 to 16 of *Tiedemann* as cited by the Examiner, it is respectfully submitted that a base station cannot determine that there is a frame reception from a mobile station or that a mobile station is synchronized with an existing frequency, when a new frequency is to be searched or handoff is attempted. Herein, it is merely disclosed that after receiving each frame of data, an error indication bit (EIB) for the receiving frame returning to the base station can be transmitted. That is, according to *Tiedemann*, if the handoff is not achieved, the handoff attempt is given up and the mobile station returns to an original system so that failing to search a new frequency is reported. However, according to the present invention, upon recovery of traffic channel and disconnection of call, a call recovery to another base station is simultaneously accomplished using the disconnected additional channel and common control channel, and a call is immediately resumed in a base station where the traffic channel is firstly formed. For at least the above reasons, Claim 1 is believed to be allowable over the admitted prior art in view of *Tiedemann*.

Without conceding patentability per se of dependent Claims 2-4, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claims 2-4 should be withdrawn by virtue of their dependence on Claim 1.

It is respectfully submitted that the arguments used to distinguish the method of Claim 1 over the admitted prior art in view of *Tiedemann* also apply to distinguish the method of Claim 5 over the admitted prior art in view of *Tiedemann*. Therefore, it is

respectfully submitted that Claim 5 is patentably distinct over the admitted prior art in view of *Tiedemann*.

Further, is respectfully submitted that the argument regarding signal strength comparison used to distinguish the method of Claim 1 over the admitted prior art in view of *Tiedemann* also applies to distinguish the method of independent Claim 6 over the admitted prior art in view of *Tiedemann*. Therefore, is respectfully submitted that Claim 6 is patentably distinct over the admitted prior art in view of *Tiedemann*.

Without conceding patentability per se of dependent Claim 7, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 7 should be withdrawn by virtue of its dependence on Claim 6.

It is respectfully submitted that the arguments used to distinguish the method of Claim 1 over the admitted prior art in view of *Tiedemann* also apply to distinguish the method of Claim 8 over the admitted prior art in view of *Tiedemann*. Therefore, it is respectfully submitted that Claim 8 is patentably distinct over the admitted prior art in view of *Tiedemann*.

Without conceding patentability per se of dependent Claim 9, it is respectfully submitted that the rejection under 35 U.S.C. §102(b) of Claim 9 should be withdrawn by virtue of its dependence on Claim 8.

Finally, is respectfully submitted that the arguments used to distinguish the method of Claim 1 over the admitted prior art in view of *Tiedemann* also apply to distinguish the method of Claim 10 over the admitted prior art in view of *Tiedemann*. Therefore, Claim 10 is believed to be allowable over the admitted prior art in view of *Tiedemann*.

In view of the preceding amendments and remarks, it is respectfully submitted that all pending claims, namely Claims 1-10 are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant(s)

DILWORTH & BARRESE, LLP
333 Earle Ovington Boulevard
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516
PJF/DMO/lah